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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,796	09/23/2003	William B. Dawson	KEY 1028USC2	4101

9561 7590 07/16/2007 POPOVICH, WILES & O'CONNELL, PA 650 THIRD AVENUE SOUTH SUITE 600 MINNEAPOLIS, MN 55402		EXAMINER A, PHI DIEU TRAN
ART UNIT 3637	PAPER NUMBER	
MAIL DATE 07/16/2007	DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/668,796

Applicant(s)

WILLIAM B. DAWSON ET AL

Examiner

Phi D. A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Samuel et al (3086327).

Samuel et al (figures 11, 4) shows a landscaping block comprising a first surface(54) and an second surface (opposite top surface), first and second generally opposed sides (figure 11 where part 52 is, including the space not cover by part 52), each side extending from the first surface to the second surface, opposed substantially planar first and second ends (44, and the opposite thereof), each end extending from the first surface(54) to the second surface(bottom of 44) and from the first side to the second side, the first end (figure 11 where the edge 46 is) being larger in surface area than the second end (44), the first side including a first substantially horizontal ledge extending between the first and second ends (the ledge area beside the first surface 54 to the right), the second side including a second substantially horizontal ledge (the ledge area beside the first surface 54 to the left) between the first and second ends, at least one of the first and second surfaces having a smooth texture (the embodiment when only one part 54 is present, the surface without the part 54 is smooth), at least one of the first and second surfaces having a roughened texture.

As Samuel shows all the claimed structural limitations of the block and the structure also is able to function as claimed in the landscaping block system, which essentially only claims one

block that must be able to function together with other similar blocks as set forth, the reference thus is proper for 102 rejections of the claims.

3. Claims 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Scheiwiller (4627764).

Scheiwiller (figures 1, 10) shows a landscaping block system comprising multiple blocks (figure 3), each block comprising a first surface(4) and a second opposed bottom surface (opposite first surface), first and second generally opposed sides (3 and the side to the left), each side extending from the first surface to the second surface, opposed substantially planar first and second ends (figure 1, the ends to the front and back of the block), each end extending from the first surface to the second surface and from the first side to the second side, the first end (figure 10, the end which is wider) being larger in surface area than the second end (figure 10 shows another possible version of the end of figure 1 and is clearly disclosed on column 2 lines 52-53 to have tapering end to enable the stone to be laid down into a circle), the first side including a substantially first ledge (beginning at the bottom of recess 4 to the top of side 3) extending between the first and second ends, the second side including a second substantially horizontal ledge extending between the first and second ends, at least one of the first and second surfaces having a smooth texture (figure 1, the first surface 4 appears smooth), at least one of the first and second surface having a roughened texture (figure 2, the surface 5 appears rough),.

As Scheiwiller shows all the claimed structural limitations of the block and the structure also is able to function as claimed in the landscaping block system, which essentially only claims one block that must be able to function together with other similar blocks as set forth, the reference thus is proper for 102 rejections of the claims

Response to Arguments

Applicant's arguments with respect to claims 20-24 have been considered but are moot in view of the new ground(s) of rejection.

Also, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

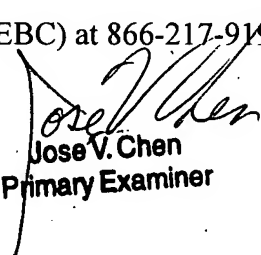
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A

PA


Jose V. Chen
Primary Examiner

07/08/07